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CHIEF EXECUTIVE OFFICER

Adam Krantz

February 21, 2017

**The Honorable Scott Pruitt
Administrator**

**U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460**

Dear Administrator Pruitt:

On behalf of the National Association of Clean Water Agencies (NACWA), I want to congratulate you on being confirmed as Administrator of the U.S. Environmental Protection Agency (EPA). NACWA looks forward to working with you and your team and to addressing the many water quality and infrastructure challenges facing the nation. NACWA represents the interests of municipal wastewater treatment and stormwater management agencies. NACWA's public agency members are on the front lines of protecting public health and the environment, collecting and treating the majority of the wastewater generated each day in the United States. Simply stated, no other group of public servants has done more for our environment and public health over the past 40-50 years than our nation's public water and wastewater treatment plant leaders and staff.

NACWA has met with members of President Trump's transition team and has provided policy recommendations on an array of water-related issues, including the attached letter. I and a select group of utility leaders on my Board of Directors from across the country would greatly appreciate the opportunity to discuss these issues directly with you as soon as possible. Given President Trump's stated goal of refocusing the Agency on its core purpose of ensuring clean water and clean air, I believe we can accomplish much together and we should begin this collaborative process as soon as is feasible for you.

As you know, our nation faces a \$600 billion funding gap for wastewater and water infrastructure over the next 20 years and demands on local ratepayers to cover these costs are quickly reaching unaffordable levels. NACWA is pleased to see that the Trump Administration has made a commitment to working on these infrastructure challenges and we welcome the opportunity to work with you on this issue. NACWA has been working with EPA and the clean water community on infrastructure financing issues since 1970, and our members offer a wealth of expertise on what has worked and where improvements are needed.

In addition to the existing infrastructure investment needs, NACWA's public utility members also continue to face a wide array of challenges such as increasingly

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stringent water quality regulations and federally mandated/enforcement-based requirements to minimize sewer overflows that are requiring billions of dollars of investment in new treatment technologies, storage and systems. We welcome the opportunity to discuss the progress that has been made as well as those areas where we believe greater regulatory flexibility would help our members prioritize their investments and maximize each ratepayer dollar.

As NACWA members seek to meet these challenges, the sector is becoming more innovative and more focused on the potential for technological advances and creative management approaches to navigate the increasingly complex maze of demands on these essential services. This solution-oriented effort is what we call the Utility of the Future initiative and we believe it affords an enormous opportunity to help frame the funding and policy landscape for water.

Again, we would like to set up a meeting with you and some of our key utility executives at your earliest convenience. Please contact me or Chris Hornback, NACWA's Chief Technical Officer, at chornback@nacwa.org or 202/833-9106 to schedule a meeting.

Congratulations again and I look forward to meeting you and to discussing ways for NACWA and EPA to continue our long and productive history of working together.

Sincerely,



Adam Krantz
Chief Executive Officer
202/833-4651 (office)
202/604-3817 (cell)
akrantz@nacwa.org

ATTACHMENT

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CHIEF EXECUTIVE OFFICER

Adam Krantz

December 12, 2016

President-Elect Donald J. Trump
1717 Pennsylvania Avenue, NW
Washington, DC 20006

Dear President-Elect Trump:

On behalf of the members of the National Association of Clean Water Agencies (NACWA), congratulations on your election as President of the United States.

As you made clear during your successful campaign, reinvestment in our nation's crumbling infrastructure must be a top priority. NACWA and its public clean water utility members stand ready to work with you and your administration on this important endeavor, and we respectfully request a meeting with members of your transition team and new administration to discuss our recommendations for investing in our nation's clean water infrastructure and improving water quality.

NACWA is the leading national advocacy voice for the nation's publicly owned wastewater and stormwater utilities. We have nearly 300 public agency members across the country representing a diverse array of geographic locations and population sizes. Our member agencies serve over 124 million people in 46 states, the District of Columbia, and Puerto Rico. Our members are true public servants, working on the front lines every day for environmental and public health protection on behalf of their communities. NACWA is committed to advancing its priorities and the interests of its members on a bipartisan basis.

As we noted in our letter to your campaign in August, we believe recent events have made it clear that water must be a top national priority and significantly increased investments in clean water infrastructure— the network of aging pipes, treatment plants and stormwater systems - are critical to ensure our nation's security, create jobs, grow the economy and protect our public health and environment. Public utilities currently shoulder approximately 95% of all investment in water and wastewater systems (nearly \$100 billion annually) but affordability constraints are demanding a more serious investment role from state and federal partners.

Our public utility members are also focused on addressing affordability concerns for low income populations within their communities, advancing responsible regulatory reform proposals that streamline the regulatory and permitting process to aid utilities in meeting environmental and public health goals in more cost-effective ways, and continuing to promote the amazing innovation that is already occurring within the water sector.

We outline these issues in more detail below and include recommendations for consideration by your administration.

NACWA greatly appreciates the attention you provided to infrastructure issues during the campaign, as well as your commitment for greater investments in our nation's urban areas. And we were pleased that, in your acceptance speech on election night, you emphasized infrastructure as a signature policy initiative. Your quote that *"we're going to rebuild our infrastructure, which will become...second to none. And we will put millions of our people to work as we rebuild it,"* was a welcome commitment to address a significant public need. NACWA and its members welcome the opportunity to work with you and your administration to make this vision a reality.

Increase Funding for Clean Water Infrastructure

The United States has made significant investments in its clean water infrastructure systems over the past century, but we are at risk of losing many of the advances we have made without a serious national investment. While much of this funding will come from local sources, the federal government must also step up its commitment.

At the national level, the federal government has played a critical role over the last forty years in supporting water infrastructure investment, especially during the early days of the Clean Water Act (CWA) through the federal construction grants program. These grants provided a vital foundation for much of the clean water infrastructure in the United States and were followed by federal loan support through the Clean Water State Revolving Fund (CWSRF).

However, federal support for water infrastructure has not kept pace with the growing need, and funding for the CWSRF has consistently fallen short in recent years. While the \$6 billion for water infrastructure included in the 2010 American Recovery & Reinvestment Act was a welcome infusion of resources, it was not nearly enough to meet the need, which is estimated by EPA's most recent Clean Water Needs Survey at \$270 billion.

Modernizing and replacing the country's aging water and wastewater infrastructure may be the single largest public works need that our nation faces and it requires a serious investment. NACWA applauds your commitment during the campaign to triple funding to the CWSRF and Drinking Water SRF. These funds provide vital federal support to clean water projects, and a tripling of the federal commitment to these programs will help advance infrastructure projects across the nation. NACWA stands ready to work with you and Congress to make this promise a reality.

NACWA also appreciates your interest in advancing a major infrastructure funding bill early in your presidency. The time is right for a significant national infrastructure package, and NACWA is prepared to actively support an effort that includes substantial resources for water related projects. While private funding may play an important role in any such package, NACWA also believes there must be a meaningful commitment of federal dollars included in any infrastructure bill. This is an area where strong bipartisan support is possible.

The federal government also plays a key role in supporting clean water infrastructure funding through preservation of municipal tax-exempt bonds. These bonds provide a significant source of capital for public clean water utilities to meet their infrastructure investment needs. There has been growing speculation since the election that the tax-exempt status of municipal bonds may be targeted as part of a larger infrastructure bill or tax reform package in the next Congress. NACWA strongly opposes such a move and encourages your administration to defend tax-exempt municipal bonds as a critical source of infrastructure funding for local governments.

Key Recommendations for Clean Water Infrastructure Funding

- Advance a robust national infrastructure package. NACWA strongly supports additional federal investment in our nation's infrastructure, and recommends that a significant portion of any new federal infrastructure investment be dedicated to improving our nation's clean water infrastructure. NACWA also recommends that any package include a meaningful commitment of federal dollars and not rely solely on private financing.

As you have rightly noted, investments in clean water infrastructure provide significant economic benefits to our communities. The National Association of Utility Contractors estimates that one billion dollars invested in water infrastructure can create over 26,000 jobs. The Department of Commerce estimates that each job created in the local water and wastewater industry creates 3.68 jobs in the national economy and each public dollar spent yields \$2.62 dollars in economic output in other industries. These are highly leveraged federal investments that result in significant job and economic benefits for every dollar spent.

- Triple funding for the Clean Water State Revolving Loan Fund. NACWA strongly supports your vision to triple funding for the CWSRF. Federal investment in the SRF program leverages additional investment at both the state and local levels in a variety of ways. Federal capitalization grants to the state SRF programs must to be matched by a 20% contribution from states, thereby leveraging an additional \$20 million of capital investment for every \$100 million of federal investment. Further, nearly 30 states leverage the federal capitalization grant in the bond market which can provide billions in additional working capital. Each loan issued by the SRF also typically leverages additional local investment provided through the municipal bond market, private financing or other funding sources. Increasing the federal capitalization grant will significantly increase the overall investment in water and wastewater infrastructure projects by state and local governments as well as by the private sector far beyond the direct federal investment in the program.
- Protect tax-exempt municipal bonds. For more than a century, tax-exempt municipal bonds have been a critical source of funding for water and wastewater infrastructure projects in the United States. According to a 2013 report from the U.S. Conference of Mayors, 48 of the 50 states utilized tax exempt financing to fund water and wastewater projects in 2012. Between 2003 and 2012, municipalities issued \$258 billion worth of tax-exempt municipal bonds to fund water and wastewater infrastructure—comprising approximately 16 percent of all municipal bond issuance for all infrastructure projects over that period. Any policy to alter the tax-exempt status of these bonds will cost municipalities billions of dollars, preventing many projects from going forward and significantly increasing rates for customers, while also having the perverse effect of actually lowering the total funds available for clean water infrastructure investment.

Address Affordability and Low Income Challenges

Closely linked to any discussion of water infrastructure must also be an acknowledgement of the financial challenges posed to many ratepayers by the rising costs of drinking water and clean water bills to pay for needed investments. This is particularly true for low income populations that face an increasingly difficult time affording rising clean water costs. NACWA's annual rate survey has shown in recent years that, all across the country, the annual household costs for clean water are rising faster than the rate of inflation—sometimes by double digits—and are placing unsustainable financial burdens on low income households.

NACWA welcomes your commitment on the campaign trail to provide greater assistance to struggling towns, cities and urban areas in our nation, and we believe an excellent way to provide this assistance is to address the

growing economic challenges of providing clean, safe water and reliable water infrastructure to working-class Americans. In the wake of the tragedy in Flint, Michigan and a growing array of challenges to clean and safe water services, it is critical that we as a nation commit ourselves to making the investments needed to address these issues while also providing assistance to those most disproportionately impacted by the cost.

In addition to ensuring that low-cost financing programs are available, NACWA encourages your administration to examine how clean water affordability evaluations are conducted by the Environmental Protection Agency (EPA) and the Department of Justice (DOJ). There are a number of changes that could be made within the Executive Branch to address affordability concerns. NACWA also encourages your administration to explore with Congress opportunities for the federal government to provide additional financial assistance to clean water utilities and local governments to assist low income households in affording the rising costs of clean water services.

Key Recommendations for Affordability/Low Income Issues

- Revise the clean water affordability evaluation process currently used by EPA and DOJ. The current affordability guidelines were developed in 1997 and are horribly outdated. They rely on a single economic indicator (medium household income) and have not been formally revised and updated to account for changed economic circumstances. This approach is particularly problematic when used in an environmental enforcement context and DOJ seeks to place a public utility and its community under a federal enforcement order. EPA's guidelines must be revised to include new affordability criteria that evaluate a much broader range of community affordability factors.
- Explore development of a federal low income assistance program. Today, 40% of households across America are paying more out of their disposable incomes for wastewater management than what EPA says is affordable. Given that federal assistance programs already exist related to food and energy costs, NACWA believes it is time to consider a federal role in ensuring lower-income ratepayers who struggle to pay water and sewer services can nevertheless continue to access to safe and clean water. This could be accomplished through a variety of means, including allowing local governments to use a percentage of CWSRF funding to address affordability concerns, or creating a federal program to assist low income households pay for water and sewer service, similar to the existing Low Income Home Energy Assistance Program (LIHEAP) for energy costs. This could also be structured as an incentive-based program requiring state and local matching contributions so that water infrastructure investment grows at all levels.

Such federal assistance would allow local utilities and governments to increase water and sewer rates as necessary to cover the cost of additional infrastructure investments – and with local ratepayers still covering the bulk of the investment costs – but without the risk of placing a disproportionate and unsustainable financial burden on the poorest households in the community.

Advance Responsible Regulatory Reform

A key message you communicated during the campaign was that government can work smarter and better for the American public, with an emphasis on reforms to streamline the existing regulatory process. NACWA believes there are several key reforms in the clean water sphere, as outlined below, that could significantly ease the regulatory burden on public clean water utilities while at the same time providing improved environmental and public health protections at better cost.

Key Recommendations for Regulatory Reform

- Continue advancing Integrated Planning concepts. EPA's 2012 Integrated Planning Framework and subsequent related documents around affordability have provided important new flexibilities for clean water utilities to prioritize their regulatory obligations and infrastructure investments. NACWA applauds EPA for the steps taken thus far. But more must be done to institutionalize integrated planning concepts in all aspects of EPA's interaction with clean water utilities, especially in the permitting context. Integrated planning-based scheduling and sequencing must be available as an option for utilities to consider in all National Pollutant Discharge Elimination System (NPDES) permits going forward. EPA should also work with Congress to codify integrated planning in to the CWA.
- Focus on a "net environmental benefit" analysis. EPA's current approach to implementing the various existing environmental statutes does not consider how requirements under one program may negatively impact another, or whether together the requirements result in an overall environmental benefit. EPA must do a better job evaluating whether its water-related requirements will have unintended consequences and explore if there is a more cost effective, environmentally beneficial approach. A top priority in this regard is the accretion of water-related EPA mandates in recent years. Increasingly stringent pollutant requirements continue to drive clean water utilities to more sophisticated levels of treatment, resulting in higher energy consumption, more chemical use, and rising costs, all with diminishing water quality return on investment. These resources could be more effectively used elsewhere. This is an area ripe for responsible regulatory reform, and NACWA is ready to work with your administration on devising solutions.
- Promote smarter approaches to wet weather regulation. Upgrades to address wet weather issues, including combined and sanitary sewer overflows (CSOs and SSOs) are often the most expensive investments clean water utilities must make. There are existing regulatory flexibilities under the CWA that EPA should pursue to create more rational wet weather regulations, especially around the management of SSOs. Instead of dictating what kinds of wet weather treatment processes should be used at wastewater treatment plants, EPA should put policies in place that encourage use of these technologies to provide the most effective level of treatment to the greatest amount of flow. EPA must also work with municipal stormwater utilities to provide maximum flexibility in meeting the CWA's "maximum extent practicable" standard for stormwater discharges.
- Focus on compliance assistance, not compliance assurance, with public clean water utilities. One of the largest cost drivers for clean water utilities has been the massive expenditures mandated by EPA enforcement orders and consent decrees. Although enforcement may be necessary in certain situations, EPA should focus on assisting local communities with compliance assistance first and only begin formal enforcement proceedings when efforts at compliance assistance have failed. Additionally, the cost of any enforcement actions required by EPA should be justified by measurable environmental benefits on a net environmental benefit basis.
- Streamline the SRF application and documentation process. While the CWSRF is a very important source of clean water infrastructure funding – particularly if its federal contribution is significantly increased – some clean water utilities are dissuaded from using CWSRF resources due to the significant paperwork and bureaucratic requirements associated with accessing these funds. EPA should work with the states and stakeholders from the clean water sector to significantly reduce the paperwork and bureaucracy around CWSRF loans.

Promoting Water Sector Innovation

There are exciting advances taking place in the municipal clean water sector. While public clean water utilities once just focused on treating and managing a waste product, they have reinvented themselves over recent years into producers of valuable products and services for their communities, as well as agents of innovation, new ideas, job creation, economic growth, and technological advancement.

Nowhere has this new mindset been better captured than in the Utility of the Future (UOTF) concept pioneered by NACWA, the Water Environment Federation (WEF) and the Water Environment & Research Foundation (WE&RF) to highlight the ways in which municipal clean water agencies are leading the charge to a new tomorrow.

The UOTF concept is based on the simple notion that clean water utilities can embrace and implement innovative approaches and technologies to improve environmental performance while also lowering costs, increasing revenue, and helping boost the local economy. These approaches include things like energy production from the wastewater treatment process, use of green infrastructure to address and reduce wet weather flows, recovery of valuable resources like phosphorus from the waste stream, water reuse and water recycling, use of big data to better optimize system performance, nontraditional funding partnerships – including public/private partnerships – to finance clean water projects, and watershed approaches to address water quality impairment more holistically within an overall watershed.

These innovations by the municipal clean water sector are a critical component of moving America's wastewater and stormwater systems into the 21st century while also providing greater environmental and economic value for local communities. Our nation's clean water utilities are innovation pioneers, and are great examples of how new thinking at the local level can help solve many of our most pressing 21st century environmental challenges.

Key Recommendations for Promoting Water Sector Innovation

- Create a regulatory structure that encourages and incentivizes innovation by public clean water agencies. Utilities are pursuing a broad range of new concepts to improve the environment and protect public health in more cost-effective ways, as outlined above. The federal government should work to provide a better regulatory environment that will incentivize innovation. Current regulations, focused on harsh consequences for noncompliance with permit requirements, force many clean water utilities to 'play it safe' and adopt technologies and approaches that are proven and established. Safe harbor concepts, adaptive management and other implementation tools should be explored to enable clean water utilities to explore new, more innovative approaches.
- Provide financial support to help spread adoption of UOTF innovations for widespread use. Many clean water agencies are interested in adopting new UOTF technologies like water reuse and water recycling, resource recovery, energy production, and other approaches that will lower operating costs and/or increase revenues. But engaging in the necessary planning, cost calculations, and securing funding to pursue these innovations can exceed what many utilities and communities can afford. Additional federal support, whether in the form of direct spending, loans, or tax incentives for private sector investment, could help communities with limited budgets make the upfront investment that will help jumpstart their UOTF efforts.

NACWA appreciates this opportunity to provide recommendations to you and your transition team as you continue the important task of preparing key policy initiatives for your presidency. Additionally, a number of other water sector organizations including the Association of Metropolitan Water Agencies, the American

Water Works Association, the Water Environment Federation, and the Water Research Foundation have submitted their own transition documents and recommendations. There was also a joint transition letter submitted to you by a broad coalition of water sector organizations, spearheaded by the U.S. Water Alliance and including NACWA as a signatory, that outlined key high-level issues enjoying wide support within the water community where important progress can be made. NACWA strongly encourages you and your transition team to consider the recommendations put forth in these documents.

The challenges facing our nation's public clean water agencies are significant, but the opportunities to address these challenges and improve water quality by empowering these utilities in new and innovative ways have never been greater. NACWA is eager to work with you and your administration to elevate clean water as a national priority.

Please do not hesitate to contact Nathan Gardner-Andrews, NACWA's Chief Advocacy Officer, at 202/833-3692 or ngardner-andrews@nacwa.org with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond J. Marshall".

Raymond J. Marshall
President

A handwritten signature in black ink, appearing to read "Adam Krantz".

Adam Krantz
Chief Executive Officer